

REMARKS

Reconsideration of the application is respectfully requested.

Claims 21-30, 32-42, 45 and 46 were pending in the Application. Claims 21-30, 32-42, 45 and 46 are now still pending in the application.

The specification was amended to indicate that this application is a divisional application of non-provisional application 10/209,765, filed on 08/01/2002.

DETAILED ACTION

1. The comments of the Examiner are acknowledged.

Claim Rejections - 35 USC § 103

2. The comments of the Examiner regarding the quotation of 35 USC § 103(a) are acknowledged.
3. Claims 21-25, 28-30, 32-36, 39-42, 45 and 46 were rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over U. S. Patent No. 5,447,005 to Giannuzzi in view of U.S. Patent No. 5,367,751 to De Witt.

Applicants respectfully traverse the position of the Office Action. The claims of the present invention have immense differences when compared to what Giannuzzi (U. S. Patent No. 5,447,005) and De Witt (U.S. Patent No. 5,367,751) disclose, and by no means a person of ordinary skill in the art could combine the teachings of these two patents and derive Applicants' invention.

All claims of the present invention require that the barbs of the fastener **have an origin** at a region selected from the **side neck** portion and the **side leg** portion. The **side neck** portion is by definition **away from the center of the neck**, and the **side leg** portion is **away from the center of the leg**. It is very clear in the specification that each leg 24 has a side leg portion 32 (page 13, lines 3-9) and the neck 18 has side neck portions 22 (page 12, lines 29-30). Side portions, naturally, are away from any central region because they are side portions, and not portions in general. In addition, as also illustrated in Figures 5 and 8, barbs of the present invention have an origin on a **side portion**.

In contrast, Giannuzzi's tabs have an origin in a **central region** of just the legs, and **not on side portions**, as also shown clearly in all Giannuzzi's Figures. If Giannuzzi's tabs had an origin at a region of a side portion, Giannuzzi's fastener

would not be functional, because such tabs, like the barbs of the instant invention for example, would not be disposed in a position to allow them to hold the screw 23 (Giannuzzi' s Figures 6 and 7, and column 5, lines 40-68). Thus, Giannuzzi' s disclosure leads a person of ordinary skill in the art away from making fasteners with barbs originating at the **side portions** of the neck and/or the legs, and therefore, leads a person of ordinary skill in the art away from the instant invention.

De Witt' s **elements 42** that the Office Action calls barbs (which are not), are actually the distal portion of Witt' s angle shaped element 38, which has also an origin at a **central region** of De Witt' s device.

It becomes obvious then, that a person of ordinary skill in the art would be at most guided by either reference or a combination thereof to make devices with tabs having an origin in the **central region** of the legs and **not at the side portions**

Further, a person of ordinary skill in the art, considering De Witt' s elements 42, would not even be slightly motivated to change the shape or position of Giannuzzi' s tabs, because this would not only serve any purpose at all (shape change), but it might even defeat the purpose (position change), as far as Giannuzzi' s invention is concerned.

Similarly, a person of ordinary skill in the art, considering Giannuzzi' s tabs (being straight) would not be motivated at all to change De Witt' s angle-shaped elements to be straight, because this would certainly defeat the purpose of De Witt' s invention.

Thus, it becomes obvious once more that a person of ordinary skill in the art would not be even slightly motivated to arrive to Applicants' invention based on the above two references.

Applicants totally agree with the Examiner that the manner in which an apparatus is intended to be employed does not impose any structural limitation upon the claimed apparatus. However, Applicants respectfully submit that the manner in which an apparatus is intended to be employed plays a major role and has a great influence on

a person of ordinary skill in the art to see an invention as obvious or not, based on changes in said apparatus disclosed in one reference and compared to an apparatus disclosed in another reference, when the critical elements of the apparatuses of the two references are intended to be employed in a completely different manner. In this particular case the critical elements of Giannuzzi' s apparatus are the tabs 15 and 17, which intend to hold the legs 12 and 13 apart by pushing against a screw 23, while the critical elements of Witt' s apparatus are the locking projections 38 of the clip 30 including the flat portions 42, intended to hold said clip 30 within a slot 44.

Based on the above comments, Applicants respectfully request withdrawal of the rejection of claims 21-25, 28-30, 32-36, 39-42, 45 and 46 under 35 U.S.C. 103(a) as being unpatentable over U. S. Patent No. 5,447,005 to Giannuzzi in view of U.S. Patent No. 5,367,751 to De Witt.

4. Claims 26, 27, 37, and 38 were rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over U. S. Patent No. 5,447,005 to Giannuzzi in view of U.S. Patent No. 5,367,751 to De Witt as applied to claims 21 and 32, and further in view of U.S. Patent 6,379,092 to Patel et al.

Applicants respectfully traverse the position of the Office Action.

Claims 26 and 27 have all the limitations of claim 21, and claims 37 and 38 have all the limitations of claim 32. Since claims 21 and 32 are earnestly believed to be patentable, claims 26, 27, 37, and 38 are also believed to be patentable for the same reasons discussed above, and therefore any further discussion would be moot.

Based on the above comments, Applicants respectfully request withdrawal of the rejection of claims 26, 27, 37, and 38 under 35 U.S.C. 103(a) as being unpatentable over U. S. Patent No. 5,447,005 to Giannuzzi in view of U.S. Patent No. 5,367,751 to De Witt, and further in view of U.S. Patent 6,379,092 to Patel et al.

Response to Arguments

8. The Response of the Office Action to the Applicants' Arguments is

respectfully traversed for the reasons and clarifications made above.

Conclusion

The comments of the Examiner are acknowledged.

SPECIFICATION AMENDMENT

On page 1, lines 8-10 under “RELATED APPLICATIONS”, please amend the paragraph starting with the words “This application claims.....” and ending with the words “.....in its entirety” as follows:

-- This application ~~claims priority of provisional patent application 60/388,976, filed on June 14, 2002,~~ is a divisional application of non-provisional application 10/209,765, filed on 08/01/2002, which is incorporated herein by reference in its entirety. --